



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

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March 27, 1972

Honorable Bevington Reed
Commissioner, Coordinating Board
Texas College and University System
P. O. Box 12788, Capitol Station
Austin, Texas 78711

Opinion No. M-1101

Re: Trustee election for
the Texas Southmost
Union Junior College
District.

Dear Dr. Reed:

Your request for an opinion asks the following questions:

"Texas Southmost Union Junior College District is having an election of trustees on April 1, 1972. They raise the question -- will the college be required to hold a run-off election in the event no candidate receives a majority of the vote.

"The second question relates to the fact that one of the candidates running for office of trustee will not reach age 18 until sometime in March 1972. The deadline for filing was March 1st and the election is to be held on April 1st."

Subdivision (e) of Section 130.044 of the Texas Education Code relating to elections of the Board of Trustees for a union junior college district, provides:

"(e) In the election each voter may vote for only one candidate for each numbered position. The candidate receiving the most votes for each numbered position voted on in the election is entitled to serve as a trustee on the board, in the position to which he is elected."

It is noted, however, that Section 130.043 provides that after the election of the original trustees, the Board of Trustees "shall be organized and constituted, pursuant to the provisions of Section 130.082 of this code and be governed by the provisions thereof." Subdivision (g) of Section 130.082 of the Texas Education Code specifically provides:

"(g) . . . At each election candidates shall be voted upon and be elected separately for each position on the board, and the name of each candidate shall be placed on the official ballot according to the number of the position for which he or she is running. A candidate receiving a majority of the votes cast for all candidates for a position shall be declared elected. If no candidate receives such a majority, then the two candidates receiving the highest number of votes shall run against each other for the position. The runoff election for all positions shall be held on the last Saturday in April and shall be ordered, notice thereof given, and held, as provided herein for regular elections"

You are, therefore, advised in answer to your first question, a runoff election is required in the event no candidate receives a majority of the votes.

Turning to your second question, Subdivision (d) of Section 130.082, Texas Education Code, provides that each member of the Board shall be "a resident qualified voter of the district."

Subdivision (g) of Section 130.082 provides that any resident qualified elector of the district may have his or her name placed as a candidate on the official ballot for any position to be filled at each regular election.

In Oser v. Cullen, 435 S.W.2d 896 (Tex.Civ.App. 1968, error dismissed w.o.j.), the court held that the phrase "qualified voter" means one holding a voter registration certificate when elected.

Article 5.15a, Texas Election Code, provides that if a registrant will not become eligible to vote until a date subsequent to the date of issuance, the certificate shall show the date on which he will become eligible to vote.

Since the adoption of the 26th Amendment to the Constitution of the United States*, eighteen year old individuals may become qualified voters.

* Publication of the certifying statement of the Administrator of General Services that the Amendment had become valid was

You are accordingly advised that if the individual in question holds a registration certificate entitling him to vote on the date of election, he is eligible for the office of trustee, provided he is a resident of the district.

S U M M A R Y

Under the provisions of Section 130.082, Texas Education Code, an individual holding a voter registration certificate entitling him to vote on the date of election, is eligible for the office of trustee of a junior college district if he is a resident of the district.

Section 130.082 requires runoff elections for trustees of union junior college districts in the event no candidate receives a majority of the votes cast.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by John Reeves
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

Kerns Taylor, Chairman
W. E. Allen, Co-Chairman
James Quick
William J. Craig

made on July 5, 1971, pursuant to Title 1, Sec. 106b, U.S.C.A. This was published in 36 Fed. Reg. p. 12725, Wed., July 7, 1971. Texas had ratified the Amendment on May 5, 1971. Acts 62nd Leg., 1971, R.S., S.C.R. No. 65, p. 3867-8 (official bound vol. of Session Laws).

Dr. Bevington Reed, page 4 (M-1101)

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